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PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Report of the Working Group on Minorities on its sixth session

(Geneva, 22-26 May 2000)

Chairperson-Rapporteur: Mr. Asbjørn Eide

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Introduction

1. The establishment of the Working Group on Minorities was recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/4 of 19 August 1994, authorized by the Commission on Human Rights in its resolution 1995/24 of 3 March 1995, and endorsed by the Economic and Social Council in its resolution 1995/31 of 25 July 1995. By decision 1998/246 of 30 July 1998, the Economic and Social Council extended the mandate of the Working Group with a view to its holding one session of five working days annually.

2. In accordance with its mandate, the Working Group has been entrusted to: (a) review the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; (b) examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments; and (c) recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

3. In compliance with the above-mentioned resolutions, the Working Group held 10 public meetings from 22 to 26 May 2000.

I. ORGANIZATION OF THE SESSION

A. Election of officers

4. At its sixth session, the Working Group re-elected Mr. Asbjørn Eide as Chairperson-Rapporteur for a further term.

B. Attendance

5. The session was attended by the following independent experts of the Sub-Commission: Mr. José Bengoa, Mr. Asbjørn Eide, Mr. Vladimir Kartashkin, Ms. Deepika Udagama, Mr. Yeung Kam Yeung Sik Yuen.

6. The following States Members of the United Nations were represented by observers: Albania, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Bhutan, Bosnia and Herzegovina, Chile, China, Colombia, Croatia, Cuba, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, Germany, Hungary, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Latvia, Lithuania, Malaysia, Mauritania, Mexico, Netherlands, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovakia, Spain, Sri Lanka, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United States of America, Uruguay.

7. The following non-member States were represented by observers: Holy See, Switzerland.

8. The following United Nations bodies and specialized agencies and intergovernmental organizations were represented at the session: International Labour Organization, United Nations Educational, Scientific and Cultural Organization, League of Arab States.

9. The following national institutions were represented at the session: Office of the Hungarian Parliamentary Commissioner for Minorities, Swiss Federal Commission against Racism.

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: Association of World Citizens, Caucasians United for Reparations and Emancipation, December 12th Movement International Secretariat, Federal Union of European Nationalities, Franciscans International, Indian Movement "Tupaj Amaru", Interfaith International, International Centre for Ethnic Studies, International Council of Jewish Women, International Institute of Non-Aligned Studies, International Human Rights Association of American Minorities, International Movement against All Forms of Discrimination and Racism, International Save the Children Alliance (SCF-UK), Minority Rights Group, World Federation of United Nations Associations, World Muslim Congress.

11. The following other non-governmental organizations were represented by observers: A4 Ngoc Khanh Science Village, Adalah Organisation, African Indigenous and Minority Peoples Organization, Ahmadiyya Muslim Association, Arid Lands Institute, Association for Democratic and Open Society, Association for Democratic Initiatives, Association Mauritanienne des Droits de l'Homme, Bahn-Ruam-Jai Project and Conto, Bhutan Women and Children Organisation, Bulgaria Macedonian Minority, Burma Peace Foundation, Centre for Human Ecology Studies of Highlands, Centre for Human, Civil and Autonomous Rights, Centre for Human Rights and the Prevention of Ethnic Conflict, Citizens Constitutional Forum, Dalit Cultural Front, Human Rights Education Movement of India, Espacio Afroamericano, Human Rights Alliance, Hungarian World Federation, Hungarian Youth Forum, International Foundation Lelio Basso for Rights and Liberation of Peoples, the Romanian Institute for Human Rights (IRDO), Kurdish Reconstruction Organization, Mecs Laszlo Association, Minority Rights Movement of San Andres, Providence and Santa Catalina Islands, Colombia, National Campaign on Dalit Human Rights, National Commission for Justice and Peace (Pakistan), National Movement for the Human Rights of the Afro-Colombian Communities-Cimarron, National Society for Human Rights of Namibia, Niger Delta Human and Environmental Rescue Organization, Organisation for Inter-ethnic Dialogue, Romani Criss, Sikh Human Rights Group, Slovakia Association for Democratic and Open Society, Sudanese Women's Voice for Peace, Representative of The Treaty Commission from The Maroons and Indigenous Peoples and the Kingdom of the Netherlands, Turkman Cooperation and Cultural Foundation, Indigenous People, Uganda Land Alliance, World Federation of Hungarians.

12. The following scholars participated in the meetings of the Working Group: Mr. Gyula Csurgai (Geneva Peace Research Institute), Mr. Edward Chaszar (University of Pennsylvania), Ms. Monika Freiberg (Norwegian Institute of Human Rights), Mr. Victor-Yves Ghebali (Institut Universitaire de Hautes Etudes Internationales, Geneva), Mr. Geoff Gilbert (University of Essex), Ms. Marie-Hélène Giroux (University of Montreal), Mr. Solomon Mebrie Gofie (Norwegian Institute of Human Rights), Ms. Sara Gustafsson (Raoul Wallenberg Institute, University of Lund), Mr. Tom Hadden (Queen's University, Belfast), Ms. Kristin Holter

(Norwegian Institute of Human Rights), Mr. Xiaohui Liang (Norwegian Institute of Human Rights), Ms. Haima Lu (Norwegian Institute of Human Rights), Ms. Maria Lundberg (Norwegian Institute of Human Rights), Ms. Kim Chantal Petersen (Norwegian Institute of Human Rights), Mr. Tim Potier (Intercollege Nicosia), Mr. Zelim Skurbaty (Danish Centre for Human Rights), Mr. Lorentz Stavrum (Norwegian Institute of Human Rights), Ms. Lalaine Sadiwa Stormorken (Norwegian Institute of Human Rights), Mr. Ilia Utmelidze (Norwegian Institute of Human Rights), Mr. Jayampathy Wickremaratne (Attorney at law, Sri Lanka) and Mr. Lynn Mazviona Zhandire (Norwegian Institute of Human Rights).

C. Documentation

13. The documents before the Working Group are listed in the annex. All the working papers submitted are available from the secretariat or are to be found on the OHCHR Web site at http://www.unhchr.ch.

D. Organization of work

14. At its first meeting, on 22 May 2000, the Working Group adopted the following agenda:

1. Adoption of the agenda.

2. Organization of work.

3. (a) Reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

   (b) Examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

   (c) Recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

4. The future role of the Working Group.

5. Other matters.

15. The Chairperson-Rapporteur reviewed the work undertaken in previous sessions and made mention of the two seminars held in the past year in Montreal on multicultural and intercultural education, and in Arusha on minority and indigenous issues. Referring to a paper presented the previous year by the International Centre for Ethnic Studies on improving the work of the Group, he requested all participants to reflect over the next few days on how the Working Group could best improve its methods of work. The Chairperson-Rapporteur paid tribute to the late Mr. Neelan Tieruchelvam, who had been the Director of the International Centre for Ethnic Studies, Colombo, Sri Lanka. He asked that his memory encourage everyone to seek more determinedly for peaceful, constructive and integrative solutions by which all groups could be accommodated and take their place in the overall framework of human rights.

II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

16. Under this agenda item, papers were presented on the draft commentary to the Declaration and on the existence and recognition of minorities.

A. Commentary to the Declaration

17. Mr. Eide introduced his commentary to the Declaration (E/CN.4/Sub.2/AC.5/2000/WP.1), based on the initial draft (E/CN.4/Sub.2/AC.5/1998/WP.1) and on the observations received in written form and made orally (see E/CN.4/Sub.2/AC.5/1999/WP.1 and E/CN.4/Sub.2/1999/21, paras. 18-25), and drew attention to those elements where most changes had been made. He noted that while a degree of integration was required in every national society, the protection of minorities was intended to ensure that integration did not become unwanted assimilation and did not undermine the group identity of persons belonging to different groups living on the territory of the State. The four underlying requirements for the protection of minorities were: protection of their existence, non-exclusion, non-discrimination and non-assimilation.

18. Mr. Kartashkin, referring to the complexities of minorities' situations, mentioned instances where a national minority could be composed of both citizens and non-citizens of a State, the main distinction being with respect to the enjoyment of political rights by non-citizens of that State. He noted that the Declaration did not give minorities the right to "external" self-determination, but the implementation of the Declaration could in some instances be served by providing "internal" self-determination. That, however, should be determined on a case-by-case basis within each State but not be regulated by international law. Mr. Gilbert argued that "internal" self-determination could often be substituted by the term "autonomy". The observer for Switzerland argued that although self-determination was a complex issue, it could enhance participation in the governance of the State. Mr. Gilbert expressed support for that view.

19. The observer for Pakistan said that the right to self-determination was one of the sacrosanct principles of international law enshrined in the Charter of the United Nations and that the third preambular paragraph 3 of the Declaration on Minorities expressly called for realization of principles set out in the Charter. The provisions of the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations also provided clear guidance on the issue of self-determination. Its implementation depended on people deciding freely and democratically to join a State, which was viewed as the essence of the right to self-determination. He argued that a minority community could acquire a collective right to exercise self-determination if its collective right and identity were being suppressed and where the Government of the State in question did not fulfil the requirements for respecting its territorial integrity, as set out in the Declaration on Friendly Relations. The Working Group did not have the mandate to limit the scope of any principle of international law or to accord a definitive judgement.

20. Mr. Eide pointed out that the Declaration on Minorities neither extended nor limited the right of peoples to self-determination. That right was well established under international law,

but was not contained in the Declaration, which only referred to the rights of persons belonging to minorities, not to the rights of peoples. That was what was pointed out in the commentary. Neither the Working Group nor the commentary intended to pass any judgement on the scope of the right to self-determination as set out in the instruments referred to by the observer for Pakistan.

21. The observer for Egypt noted that that there was no reference to the concept of extensive autonomy in the Declaration and that to include such an issue might complicate matters. He therefore disagreed with comments made by other observers which seemed to imply that the State's duty to protect the rights of minorities included an obligation to increase their autonomy. The observer for Switzerland, for his part, emphasized the usefulness of the concept of extensive autonomy, which had allowed cultural diversities to be reconciled in his country. On the issue of autonomy, the observer for the Federal Union of European Nationalities noted that the Helsinki Final Act of the Conference on Security and Co-operation in Europe, signed in 1975, referred to the "equal rights and self-determination of peoples". The Act not only affirmed the territorial integrity of States but also recognized the autonomy rights of ethnic groups as a fundamental part of self-determination. Autonomy, he stated, was the best preventive measure against secession and conflict. He identified three different types of autonomy: territorial, cultural and local, and pointed out that the choice of autonomy depended on the particularities of each situation. Mr. Eide suggested there was a need to discuss the pre-conditions for a satisfactory functioning of autonomy. Mr. Gilbert spoke of the need for a working paper on effective participation and autonomy in international law.

22. The observer for Pakistan expressed the view that the use of the term "good governance" in the commentary should be avoided, especially given the lack of clarity as to its precise meaning. The observer for Egypt took a similar position. Mr. Eide explained that he understood the term to mean a Government which was responsive to the concerns of the people and good at accommodating those concerns.

23. The observers for Egypt and India asked for clarification about the purpose of the draft commentary, the observer for Egyp. expressing the view that a declaration, which was a statement of universal principles, might be constrained by a commentary. He suggested that existing treaty monitoring bodies could be used to monitor the principles of the Declaration and spoke of the need for the consolidation of achievements, rather than further development of legal standards. If the commentary were considered an interpretation of the Declaration, it could not fail to reflect the views of States. Mr. Eide said that the commentary would be indicative of the Working Group's understanding of the Declaration in the light of the comments made by Governments and non-governmental organizations in writing and orally during previous sessions.

24. The meaning of the term "national minority" in the Declaration was the subject of some debate. Some argued that it could have undesirable connotations, such as a requirement to redraw borders. Others argued that the concept of national minorities reflected a reality that existed and to question the validity of its inclusion in the Declaration would be retrogressive.

25. It was also suggested that further references to the provisions of other international instruments and the jurisprudence of the treaty bodies could be incorporated in the commentary.

26. The observer for India emphasized the importance of protecting the rights of minorities and the fact that such protection contributed to the political stability of the State in which those minorities lived. Mr. Hadden and the observer for Switzerland suggested that the commentary should provide clarification that positive action for integration could be authorized under the Declaration.

27. Mr. Skurbaty argued that the commentary should reflect the need to ensure: that minority rights matters were encompassed in quests for a world order; that the rule of law should be more synonymous with the promotion of justice; that the emancipation and empowerment of persons belonging to minorities were promoted; and that the accommodation of different groups within State structures was not only a fundamental task of the State but also given priority in the Constitution and other legislation and policy.

28. The observers for Bangladesh, Egypt and Pakistan sought clarification on the legal status of the commentary. The observer for Egypt argued that certain issues relating to minorities remained to be conceptualized. That would have implications for the possible drafting of a future convention. The observers for Turkey, India and Switzerland noted the importance of the commentary in providing guidance and assistance to Governments in evaluating the Declaration or implementing the rights of minorities. The observers for Egypt, Turkey and India spoke of the need for work on the commentary to continue, while the observer for Switzerland expressed agreement to its adoption, given the Working Group's previous recommendation to that effect. Mr. Kartashkin suggested that the commentary on the Declaration be issued as the Chairperson-Rapporteur's commentary, taking into account observations made by members of the Working Group and by observers who had offered comments and proposals orally and in writing.

29. Mr. Eide also presented for comment the first draft of a working paper on the relationship between the rights of persons belonging to minorities and those of indigenous peoples, to be prepared jointly with the Chairperson of the Working Group on Indigenous Populations, for submission to the Sub-Commission at its next session. He noted that the rights of minorities were individual ("the rights of persons belonging to"), and the rights of indigenous peoples were primarily collective.

30. The observer for the Centre for Human, Civil and Autonomous Rights argued that the right to land was considered a fundamental issue for indigenous peoples owing to their special relationship to the land and its resources and was considered to support their claim to other rights, including self-determination. She acknowledged that indigenous peoples normally supported collective property ownership, while minorities might consider private property to be more basic and fundamental. However, she urged that in those instances where indigenous peoples and minorities were living alongside each other, an exclusive approach to land should not be taken which would disadvantage one of the groups.

B. The existence and recognition of minorities

31. Mr. Bengoa presented his working paper on the existence and recognition of minorities (E/CN.4/Sub.2/AC.5/2000/WP.2). He had looked at the existence of minorities from a dynamic perspective and as a constructive rather than a threatening influence. He had identified three

generations of minorities. The first generation was linked to the break-up of the European empires in the period associated with the First World War and the League of Nations. The second generation was connected to the United Nations and the process of decolonization. The third generation was a corollary of the processes of globalization, which included the phenomenon of "ethno-genesis", described as the reconstruction of lost or partially lost ties by human groups. He pointed out that whereas the first generation of minorities, had singled out substantive elements for definition, such as language and religion, the subjective element of the minority's awareness of its own identity had now become the most decisive factor.

32. Mr. Bengoa referred to his analysis of the relationship between minorities and territory, race and indigenous peoples. He had examined issues pertaining to the so-called "new" minorities, such as displaced persons, refugees and migrant workers. The relationship between the national question and self-determination was also discussed. In this connection, he argued that, for several decades, the distinction between ethnic group and nation had been based on the premise that the ethnic character of a minority social group did not imply the right to self-determination. International political events, in particular in the Balkans during the 1990s, had complicated the debate. In his opinion, the United Nations had contributed to the validation of the processes of ethno-genesis, and he cited as an example the case of the "Albano-Kosovar" province of Yugoslavia.

33. By way of conclusion, Mr. Bengoa considered the recognition of a minority to be a fundamental step both for the protection of the rights of a minority and for restraining ethnic conflict. He indicated that the need to address such matters was a pending task and that, in his view, a major lacuna in both international legislation and conflict resolution mechanisms related to cases where a State did not accept the existence of a minority group.

34. The observer for Egypt appreciated the approach taken by Mr. Bengoa with its emphasis on description rather than definition, which in his view, was more suitable in view of the fact that the concept was still evolving. The observer for the Minority Rights Group agreed that it might never be possible to produce a definition of minorities, as it would be an attempt to impose a concept on a dynamic situation. The observer for the Indian Movement "Tupaj Amaru" expressed the view that it was for minorities to define themselves and the obligation of States to recognize the rights of minorities.

35. The observer for the National Movement for the Human Rights of the Afro-Colombian Communities suggested that it might be worthwhile to distinguish between assimilation, which implied homogeneity and non-recognition of diversity, and integration, which implied democratic participation and non-discrimination.

36. In relation to the issue of the recognition of minorities, the observer for the Minority Rights Group considered that clear criteria were available, despite the lack of mechanisms for conflict-resolution, in the case of minorities not recognized by a State. Mr. Kartashkin noted that, although recognition gave legitimacy to minorities, in his view, it did not necessarily guarantee protection of their rights. He suggested that recommendations be submitted next year on ways in which the United Nations could address recognition issues, and stressed the need to develop a convention on minorities and to establish a monitoring body to review its implementation. With reference to the situation in Kosovo mentioned in Mr. Bengoa's paper,

he argued that self-determination was a right of nations, not minorities. Self-determination was directly related to the process of decolonization. The principle of territorial integrity was important and a change in Statehood should only be achieved by peaceful means. This, he argued, had not been respected when the North Atlantic Treaty Organisation (NATO) had taken military action in Kosovo.

37. In the discussion of the item on reviewing the promotion and practical realization of the Declaration, several government observers provided valuable information and responded to information and concerns expressed by non-governmental organizations. In order to reflect the constructive dialogue, which took place, the main elements of the information given by non-governmental organizations and the responses given by government observers are provided below. In cases where a Government was not in a position to comment on information presented owing to the absence of an observer at the session, the Working Group will in fairness to that Government make such information available to it by letter for comment. The observer for the Syrian Arab Republic pointed out that his Government had responded to the allegations of a non-governmental organization at the previous session of the Working Group, but that his intervention had not been reflected in the report. The Chairperson-Rapporteur apologized for the omission and reaffirmed the intention of the Working Group to undertake a constructive dialogue.

1. Constitutional and legal provisions as well as other general measures protecting the existence and identity of minorities (art. 1 of the Declaration)

38. The observer for Norway informed the Working Group that the Government has presented to the Norwegian Parliament a plan of action for human rights, identifying discrimination and racism, the Sami Policy and national minorities as priority areas. The Centre for Combating Ethnic Discrimination, providing legal aid, had been set up and a resource centre for the rights of indigenous peoples would soon be established which would deal with international and national issues. Norway has ratified the European Framework Convention on Minorities and had recognized Kvens and Skogfinns, Travellers, Roma/Gypsies and Jews as minorities. The Sami were protected as an indigenous people under International Labour Organization Convention No. 169 on Indigenous Peoples, which had been ratified by Norway.

39. The observer for the Russian Federation mentioned two programmes now in operation in her country: the programme to increase tolerance and eradicate xenophobia, and the programme to eradicate political and religious extremism. She also referred to her country's concern for the rights of the Russian minorities in other States, in view of the number of persons returning to the Russian Federation from newly independent States, and suggested that a working paper might be prepared on positive experiences of countries in dealing with cases of minorities in diaspora.

40. The observer for Slovakia provided information on the conclusion of bilateral treaties between Slovakia and Hungary on culture and education, and on the adoption, on 3 May 2000, of a resolution laying out a strategy and set of implementation measures for addressing problems related to the situation of the Roma national minority, including the allocation of financial resources to each of almost 280 tasks outlined for action. Legislative measures included the adoption in 1999 of a law which dealt with the use of minority languages in official communications and public documents in those regions where persons belonging to minorities

constituted at least 20 per cent of the population. Regarding the Ministry of Culture's financial support to cultural activities in 1999, the Hungarian national minority had been allocated 50.6 per cent of total financial subsidies set aside for all 12 national minorities in Slovakia.

41. The observer for Spain, representing the Government of the Autonomous Community of the Basque Country of the State of Spain, stated that the Statute of Autonomy had granted the Basque Country extensive legislative and executive autonomy, but less autonomy in judicial terms.

42. Observers representing minority groups described situations in which the existence and identity of the minority concerned were allegedly not adequately protected. They included the Ijaw in Nigeria (Niger Delta Human Rights and Environmental Rescue Organisation), the Acholi people (Sudanese Women's Voice for Peace), the African-Americans in the United States of America who had lost their own language (Caucasians United for Reparations and Emancipation) and the Ovazemba people of Namibia who had not been recognized by their Government as their traditional leader did not have the right to participate in the Traditional Leaders Council (National Society for Human Rights).

43. The observer for the Sikh Human Rights Group argued that fear of assimilation was a particular problem for minority religious groups and communities. While noting the efforts made by the Government of India to promote pluralism and multiculturalism, he expressed concern about developments over the previous three years and about the alleged assimilation of minority religious communities into the dominant Hindu religion in India. The observer for India stated that government policy was formed within the framework of the Constitution and other legislation and that the Government was not pursuing any so-called policy of assimilation of minorities.

44. The observer for the Human Rights Alliance-Coalition for Justice in Iraq said that Kurds, Turkomans and Assyrians had been forcibly removed from the oil-rich Kurdish areas of Iraq and that displacement of minority groups from other regions had also taken place. The observer for the Kurdish Reconstruction Organization stated that large numbers of Kurdish families had been forcibly expelled from their homes, and schools and churches had been closed down by the State. The observer for Turkman Cooperation International referred to alleged oppression, ethnic cleansing and discrimination practised against the Turkmen.

45. In response, the observer for Iraq provided an overview of the legal framework which protected minorities in Iraq, including the Constitution. Autonomy arrangements included a legislative and executive body. Kurdish had been established as a second language in all schools in Iraq. The observer for Iraq encouraged representatives of minorities to undertake dialogue and discussion with the Government in order to find a peaceful solution to their minority situation. He also referred to the rights of the Turkmen minority in the areas of culture and education, including the use of their mother tongue, as well as having their own newspapers and television channels in areas where they lived. External factors exacerbated the tension between Governments and minorities.

2. The right of persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination

46. The observer for Franciscans International referred to the situation of religious minorities in Pakistan. Laws which were said to be discriminatory in their effect on persons belonging to religious minorities were the Shariah Act of 1991, the Hudud and Zina Ordinance, the Qisas and Diyat Ordinance, the Law of Evidence and other laws more commonly known as the Blasphemy Laws of the Pakistan Penal Code. The representative of the Ahmadiyya Muslim Association stated that Ahmadi Muslims in Pakistan were persecuted and continued to live under the threat of the misuse of the Blasphemy Laws.

47. The observer for Pakistan stressed that for any dialogue to be successful it should be based on facts and give due recognition to the challenges that existed on the ground in Pakistan. He also informed the Working Group that the Government was in the process of developing a long-term approach to all issues concerning minorities and had appointed the Minister for Minorities from the Christian minority. Section 295 c of the Constitution was not discriminatory in nature as it offered equal protection to all religions. However, he agreed that the Blasphemy Laws had been misused in their application. The Government was committed to putting a stop to such abuse.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation (art. 2.3)

48. Observers presented examples of cases where, in their opinion, persons belonging to minorities were unable to participate in decisions affecting them, namely: the Ijaw in Nigeria, excluded from the Niger Delta Development Commission (Niger Delta Human Rights and Environmental Rescue Organisation); the native Afro-Anglo-Caribbean people of the San Andres islands in Colombia, who were not consulted regarding the international treaties with neighbouring countries which conceded parts of their traditional fishing areas (Minority Rights Movement of San Andres, Providence and Santa Catalina Islands, Colombia).

49. The observer for Franciscans International said that the separate electorate system of Pakistan, by which citizens of Pakistan were barred from voting for candidates other than those of their own religious identity, had led to increased religious intolerance and violations of human rights. The observer for Pakistan, in response, noted that the existing system of electoral representation had been designed for the effective participation of minorities and not their exclusion and had ensured that minorities occupied 10 seats in the National Assembly and 23 seats in provincial assemblies. He also stated that a call for the replacement of separate electorates by joint electorates had been made at the Convention on Human Rights and Human Dignity, held in the Spring of 2000 in Islamabad. The speaker emphasized that while the Government of Pakistan was committed to implementing that Convention's recommendations, factions within minority groups continued to insist that a separate electorate system guaranteed their participation in the political process, whereas a joint electorate would minimize their participation in the country's mainstream social and political life.

4. The right of persons belonging to minorities to learn their mother tongue and have instruction in their mother tongue (art. 4 3) and to be taught their history and culture (art. 4 4)

50. With regard to restrictions on the right of persons belonging to minorities to learn and have instruction in their mother tongue, reference was made to, inter alia, the Ijaw in Nigeria (Niger Delta Human Rights and Environmental Rescue Organisation), the Ovazemba (National Society for Human Rights in Namibia) and the native Afro-Anglo-Caribbean people (Minority Rights Movement of San Andres, Providence and Santa Catalina Islands, Colombia).

51. With regard to deficiencies of the educational system in ensuring teaching about the history and culture of minorities, mention was made to, inter alia, the situation of the Ovazemba (National Society for Human Rights in Namibia) and the Maroons and peoples of the interior in Suriname (representative of the Chairman of the Treaty Commission from the Maroons and Indigenous People and the Kingdom of the Netherlands).

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country (art. 4 5)

52. Observers representing minority groups described many situations in which the right of persons belonging to minorities to participate fully in the economic progress and development of their country were allegedly not adequately protected, namely: the Ijaw in Nigeria who were deprived of access to roads, clean drinking water, electricity, communication systems, medical facilities and educational centres (Niger Delta Human Rights and Environmental Rescue Organisation), the Rehoboth Basters, the Topnaars and the ovaHimba/ovaHerero who were seeing their access to land and their ecosystems endangered (National Society for Human Rights, Namibia) and the native Afro-Anglo-Caribbean people who were discriminated against in public governmental institutions (Minority Rights Movement of San Andres, Providence and Santa Catalina Islands, Colombia), the Hmong's continuing struggle over the rights to use of land in Nan province in Thailand (Centre for the Coordination on Non-Governmental Tribal Development Organization (CONTO)), and the peoples of the interior of Suriname who have lost control over the natural resources and the lands they inhabited (Treaty Commission from the Maroons and Indigenous People and the Kingdom of the Netherlands).

53. The observer for the Human Rights Education Movement in India asserted that Dalit women faced a double discrimination as women and Dalits in a patriarchial society, suffering from gender violence, sexual and economic exploitation, illiteracy and lack of access to education and other social services. Their health and housing situation also remained a problem. Reference was made to alarming rises in the incidence of sex determination or female infanticide. The observer for the National Campaign on Dalit Human Rights stated that non-recognition was not a problem faced by the Dalits as most Governments in South Asia had recognized the community, but their problems related more to the non-enforcement of mechanisms set up to improve their situation. Despite legislative and constitutional protection, including through the adoption by India of the 1989 Prevention of Atrocities Act, caste-based discrimination and abuse had not been prevented or prosecuted and caste remained a determinant factor in the attainment of social, political, civil and economic rights.

54. The observer for India reviewed constitutional guarantees, including of freedom of religion, as well as special safeguards for minority rights. Despite such constitutional provisions and safeguards, regrettably incidents of violence involving members of minority communities did occur, most often perpetrated by fringe elements. The Government of India had always condemned them in the strongest terms. The caste system as not strictly an issue of minorities. Constitutional and legal safeguards existed for persons belonging to scheduled castes. Many measures had been taken to combat discrimination and to outlaw such practices, throughout India's history since independence, but issues involved in protecting and promoting the rights of persons belonging to scheduled castes were complex and required a change of attitudes as well as social and economic change. Mention was made of the role the State had to play in that regard, including the adoption of affirmative action on behalf of people belonging to scheduled castes for the reservation of seats for them within the political system and for their representation in government service. He recognized the situation of women in general and particularly of Dalit women in India, and their subjection to discrimination and lack of political power and position. Action was being taken in India to address such problems, including by placing women at the centre of decision-making, at the local and village levels. He also referred to the ban placed on pre-natal sex determination with a view to countering the practice of termination of female foetuses.

C. Developments at the regional and international levels

55. At the third meeting, Mr. Bengoa introduced the report of the African Seminar on Multiculturalism, held in Arusha from 13 to 15 May 2000 (E/CN.4/Sub.2/AC.5/2000/WP.3). He informed the Working Group about the main contents of the report and the major points discussed at the Seminar. He made mention of the election of Ms. Naomi Kipuri, member of the Board of Trustees for Indigenous Voluntary Funds, as the Seminar's Chairperson-Rapporteur, and of the welcome address delivered by the President of the International Criminal Tribunal for Rwanda, Justice Pillay, who had spoken of the connections between the lack of respect for minority and indigenous rights and the matters dealt with by the Tribunal. Mr. Bengoa and other members of the Working Group expressed thanks to those who had participated in, funded and organized the seminar. One non-governmental organization indicated that it would be desirable for the Working Group to maintain some contacts with relevant tribunals.

56. The participants in the Seminar had discussed the relevance of the concepts and definition of minorities and indigenous peoples in Africa, Mr. Bengoa said. That discussion had served to reaffirm shared features of those groups in different parts of the world and to move beyond the perceived European focus with respect to minority issues and the Americas focus with respect to indigenous issues. Thematic issues and situations affecting specific minorities and indigenous peoples in Africa were described in the report of the Seminar. Particular mention had been made of their lack of access to social services, education and health. HIV/AIDS was viewed as a particular threat to the very survival of their communities. Land was also viewed as a central issue. Conclusions and recommendations were agreed to at the Seminar, with participants indicating that a follow-up meeting should be organized.

57. Ms. Udagama and observers spoke of the importance to the Working Group of its initiative to hold regional seminars. In that regard, she mentioned their usefulness in highlighting the experiences of minorities in different regions and in broadening the Working

Group's understanding of minority issues, as well as being a vehicle for advancing its mandate. Government participation in the seminars must be ensured, she said. She also suggested that the commentary could be presented at regional seminars to determine whether participants were in agreement with the Working Group's reading of the Declaration. In view of the support of the late Neelan Tiruchelvam to the Working Group, she suggested that appreciation of his contribution be expressed to his family. The Working Group agreed that a tribute would be sent.

58. The observer for the Association of World Citizens spoke about issues raised in the report of the Arusha Seminar. He questioned the usefulness in the African context of the concept of indigenous, if it meant prior inhabitation of an area, given that migration had been a continuous phenomenon in the region. He added that history provided a framework in which to work, but should not be used to create justifications for socio-economic policy. Mention was also made of the various studies and reports undertaken on ethnic issues in Africa, including recent reports submitted to the Preparatory Committee for the World Conference against Racism.

59. In the opinion of the observer for the Centre for Civil, Human and Autonomous Rights, the Arusha Seminar had ensured that issues important to the Africa region were now encompassed within the debate on minorities and indigenous peoples, their identity and protection. She also drew attention to the exclusion of groups as a potential cause of conflict, especially where there was competition over access to and use of land. The observer for the Uganda Land Alliance also made the latter point. She referred particularly to the situation of pastoralists and of their displacement from land in northern Uganda, southern Sudan and parts of Kenya, allegedly on account of the search for minerals or for conservation purposes. She also indicated that other issues remained to be addressed in the African region, including the situation of Asian minorities. Regarding recommendations to improve the situation of minorities in the African region, the observer for the Sudanese Women's Voice for Peace mentioned, inter alia, strengthening the role of civil society and encouraging the development of regional advocacy networks.

60. Referring to the report on the Arusha Seminar, the observer for the African Indigenous and Minority Peoples Organization supplemented information it contained on the situation of the Batwa in Rwanda, Burundi, the Democratic Republic of Congo and Uganda. In particular, he spoke of the common problems affecting the Batwa, explaining that while indigenous to those countries, they did not own land and suffered from severe poverty and negative stereotyping, as well as a lack of access to public and social services, especially health and education.

61. Mr. Sik Yuen highlighted some of the points which he proposed to incorporate in his future working paper on the human rights problems and protection of the rights of the Roma, to be submitted to the next session of the Sub-Commission. He proposed to place the main problems faced by the Roma in two broad categories: on the one hand were issues associated with racism and manifestations of violence and on the other those related to the economic and social situation of the Roma. He emphasized the importance of developing mechanisms to ensure the effective and full participation of the Roma in public and political life. Establishing the trust of the Roma was vital too and education had a role to play in that regard. Mr. Sik Yuen indicated that very little attention had been paid to the issues affecting the Roma by the United Nations human rights charter-based bodies. He stressed that issues of the Roma were deserving of much attention and further study, with the assistance of non-governmental

organizations, Governments and other experts. In addition, the observer for Finland emphasized the importance of focusing on educational rights and incorporating a gender perspective in studies on the situation of the Roma.

62. The representative of the Roma Centre for Social Intervention and Studies (Romani Criss) indicated that in the previous few years the situation of the Roma had become an issue of intense interest in Europe. She presented information relating to the situation of the Roma in Bulgaria, Czech Republic, Slovakia, and Romania to be found in a 1999 European Commission report indicating that the Roma continued to suffer widespread discrimination and prejudice, evidenced in considerable social exclusion, and high levels of poverty, illiteracy and unemployment. Police protection was often viewed as inadequate. Access to employment in public institutions or government administrations was also viewed as inadequate. Sometimes a disproportionate number of Roma children were sent to special schools for mentally disabled children. Mention was made of some of the steps taken to improve the situation of the Roma. In some instances the steps taken were not sufficient. She suggested that many countries needed to adopt more appropriate legislative measures to comply with the requirements of international standards relating to the situation of the Roma, especially provisions of the International Convention against All Forms of Racial Discrimination.

63. At its 4th meeting, the Working Group held a joint discussion with the Central European Initiative (CEI) Working Group on Minorities, the purpose of which was to share experiences between different regional and international mechanisms dealing with minority issues. Mr. Cyörffy of Hungary, Co-Chairperson of the CEI Working Group on Minorities, explained the history of the establishment of that Working Group and the adoption of the CEI Instrument on Minorities. He pointed out that the CEI Instrument for the Protection of Minority Rights contained 27 articles, one of which was devoted entirely to the Roma. Although the instrument was open for signature, it did not require ratification and had not established a formal control or verification mechanism. Nevertheless, the main task of the CEI Working Group was to follow the implementation of the instrument in CEI member States.

64. Various questions and points were also raised in relation to the work of CEI and to the provisions of the CEI Instrument for the Protection of Minorities. Interest was expressed in the content of various articles of the CEI instrument, including its article 1, which contained a definition of a national minority, and in particular its description of members of a national minority as being "nationals" rather than "citizens" of a State. Clarification was requested by the Chairperson-Rapporteur and Mr. Kartashkin as to its precise meaning and implementation in practice. For his part, the observer for Switzerland spoke, inter alia, of the similarities between the provisions of the second paragraph of article 1 of the CEI instrument, on the definition of a national minority, and the provisions of Swiss legislation, which had been promulgated in compliance with its obligations as a party to the Council of Europe Framework Convention for the Protection of Minorities. Such provisions had ensured, for example, that Swiss of Roma and Jewish origin were encompassed within the definition of a national minority. Further details of the CEI Working Group's methods of work were requested, particularly as to whether or not the emphasis of that Working Group was on discussion of the situation of minorities in individual States. Replying to points raised, the Co-Chairperson of the CEI Working Group explained that the CEI instrument was a political one which allowed for different viewpoints with respect to the implementation of its provisions. It thus provided a basis for intergovernmental cooperation on

issues relating to national minorities and their solution. He explained that, at each of its meetings, individual members informed the CEI Working Group of the practical measures his or her country had taken to implement the provisions of the article chosen for discussion. Based on written contributions submitted by the members of the CEI Working Group, a comparative situation document was prepared and, all such documents were published. He added that the focus of its future discussions would be on matters pertaining to the Roma population as well as transfrontier cooperation, issues which were being promoted under the Stability Pact for South Eastern Europe. The Chairperson-Rapporteur observed that there were indeed different understandings of the meaning of "national" and "national minority" and that acceptance of the different viewpoints often facilitated cooperation.

65. Ms. Popescu of Romania, Co-Chairperson of the CEI Working Group on Minorities, spoke of the importance of the draft commentary to the United Nations Declaration in contributing to the clarification for the CEI Working Group of concepts of minority protection and its use. She referred to measures recently taken in the legislative and institutional fields in Romania with respect to education matters and the restitution of real estate, steps had been taken to encourage the participation of Roma in decision-making. In that context, assistance had been provided for the creation of a Working Group of Roma Associations, a member of the Sub-Commission on Roma the main goal of which was to elaborate a national strategy for the protection of Roma minorities in Romania.

66. The representative of the Hungarian Youth Forum indicated that he wished to supplement the information provided by Ms. Popescu, the Co-Chairperson of the CEI Working Group on Minorities. He spoke of his concern that the Hungarian University in Romania had still not been established and that only five citizens, all belonging to the Hungarian minority, had not benefited from the terms of the 22 December 1989 Amnesty for the suspension of certain sentences. Of the more than one thousand church properties confiscated previously, less than one per cent had been returned. The speaker also requested that the Constitutional reference to Romania as a "nation State" be withdrawn through amendment. Of special concern to the speaker was the so-called "new nationalization" of properties. Reference was made to the situation in two districts of Transylvania where the Hungarian population was in the majority and of the support to a minority religion diocese for the acquisition of properties, while properties nationalized in 1947 had still not been returned to their rightful owners. He spoke of the larger State and police presence in these areas and warned of it possibly leading to increased tensions there.

67. Mr. Zyman of Poland, a member of the CEI Working Group on Minorities, presented details of initiatives taken with a view to enhancing the participation of minorities in the decision-making process in Poland. He indicated that only one political party represented a national minority in Poland; other national minorities had not formed political parties to date but had concentrated their political activities around associations and election committees. He also said, inter alia, that election committees of registered organizations of national minorities were exempted from the obligation of reaching the election thresholds of 5 or 8 per cent of the total amount of votes in elections to the lower chamber of Parliament, the Sejm. One of the commissions of the Sejm was on national and ethnic minorities. It was currently dealing with two draft legal acts: on the rights of persons belonging to national minorities, and on the Polish

language. With respect to the question of autonomy of national minorities, he explained that it was dealt with in the framework of local self-government. He also provided details of election results and the consequent representation of national minorities at the local level.

68. The observer for the Association for Democratic and Open Society spoke about the reform of local government, education and cultural matters as they affected the situation of the Hungarian minority in Slovakia. In his view, the reorganization of local government in 1996 and the increased responsibility accorded to the local level for the funding and provision of education and culture had had a negative impact on the Hungarian minority. However, he commented favourably on the improved climate of tolerance towards minorities, on improvements in the field of education, especially in accommodating minority concerns, and on the increased financial support to minority cultural activities. The observer for the Association for Democratic Initiatives made reference to the issue of education in their mother tongue for the Albanian population in Macedonia, where children enjoyed instruction in Albanian at the primary level but not at higher educational levels.

69. Under this agenda item, Mr. Gilbert presented a paper on the jurisprudence of the European Court and Commission on Human Rights in 1999 (E/CN.4/Sub.2/AC.5/2000/CRP.1), which provided an indication of how international human rights law might be of use in protecting and promoting minority rights. No equivalent of article 27 of the International Covenant on Civil and Political Rights existed in the European Convention on Human Rights. However, unlike the Optional Protocol to the International Covenant, where only individual petitions were recognized, under article 35 of the European Convention complaints could be brought by individuals and groups. Article 14 of the European Convention contained a non-discrimination clause applicable in conjunction with other provisions. One of the grounds of discrimination mentioned was discrimination on the basis of association with a national minority. Neither the European Convention nor the European Court had defined the meaning of a "national minority". The Roma had been held to be included within its coverage. The European Court and Commission had interpreted discrimination broadly to cover not only similar groups being treated differently but also different sorts of groups being treated in the same manner. Affirmative action was not viewed as discriminatory against the majority population. The European Commission had found that article 8 of the European Convention, on the right to a private life, included a particular way of life, and had used it with respect to situations concerning indigenous peoples.

70. Mr. Gilbert provided detailed information on cases relating, inter alia, to: the registration of minority groups, which in certain States was linked to their right to recognition and property; and the protection and promotion of the identity of minorities and their members, through a broad interpretation of provisions relating to freedom of expression, including the right of a minority to express its identity freely, and of its members to self-identification. He also mentioned various cases concerned with respect for the right to effective participation in cultural, religious, social, economic and public life were also mentioned. They highlighted issues relating to the need of minorities both to protect their own identity and to participate in those State institutions affecting their cultural identity.

71. Ms. Udagama and the observers for Switzerland and Turkey recommended the preparation of papers reflecting the jurisprudence emanating from different regional human

rights mechanisms, including the Inter-American and African systems. Ms. Udagama also stressed the importance of the contribution of academics to the work of the Working Group and observed that Mr. Gilbert's paper offered an example of the achievements that were also possible in terms of minority rights protection when minority rights were not expressly included in the relevant instruments.

72. Mr. Gyula Csurgai introduced his paper (E/CN.4/Sub.2/AC.5/2000/CRP.2) on the question of whether autonomy arrangements could facilitate the peaceful and constructive solution of situations involving minorities in Central and Eastern Europe, including the Balkans. The history of the region had led to multiple ethno-cultural communities living within the same geographical area. There were "national problems" where the national identity of different ethno-cultural minority communities did not necessarily correspond to the State to which they belonged. The conflicts in the region had demonstrated that the changing of borders would not achieve a satisfactory situation, nor would the pursuit of the unitary structure of the nation-State satisfy the aspirations of minority communities. In his view, therefore, the implementation of different forms of autonomy might be a viable solution for the region.

73. No precise definition or one model of autonomy existed, Mr. Gyula Csurgai explained. Any plan for autonomy had to take account of the historical, geographical, cultural and economic features of communities and areas. Autonomy should include the necessary legal, political, institutional, economic and cultural tools to maintain and freely develop the identity of the community of individuals while respecting the territorial integrity of the State. He also understood autonomy to mean power-sharing based on both a consensus between the majority and minority or minorities and on the concept of "subsidiarity" (devolved responsibilities for decision-making). He discussed various forms of autonomy, such as territorial and personal autonomy, and their application, including jointly, according to each situation's needs. He also referred to the Seminar held in Flensburg in 1999, and its proposals regarding the political participation of minorities based on the decentralization of power and the principle of "subsidiarity" (see E/CN.4/Sub.2/AC.5/1999/WP.4). The principle of devolution of power had also been extensively addressed in the so-called Lund recommendations.

74. The Chairperson-Rapporteur expressed his view that autonomy arrangements were a form of decentralization. He also referred to the decision taken by the Working Group at its previous session that public institutions should not be based on ethnic criteria and that local government should recognize the role of multiple identities in contributing to open ethnic communities.

75. The observer for the World Federation of Hungarians referred to the Stability Pact for South Eastern Europe, the aim of which was better protection and promotion of human rights, and to efforts to ensure respect for multi-ethnic and multicultural societies in that region, especially in the Federal Republic of Yugoslavia. She presented details of the three-pillar autonomy concept proposed by the Hungarian community in Vojvodina. It consisted of a mixture of personal, cultural, regional and territorial types of autonomy, and was contained in the Agreement on the Political and Legal Frameworks of Autonomy of Vojvodina.

76. The observer for Switzerland pointed out that Mr. Csurgai's paper dealt with a right to autonomy which existed at the European level but not in international law. He suggested

replacing the word autonomy with other terms, such as self-administration or the principle of subsidiarity, a position which was shared by Mr. Sik Yuen. The observer for the Federal Union of European Nationalities argued that a firm framework for the preservation of identities was necessary in the first stages of ethnic tension, to prevent conflict; that would require compliance with the demand for local self-administration or autonomy. The Council of Europe Social Charter, the Charter for Regional or Minority Languages, and the Charter of Local Self-Government were described as useful basic instruments for the practical application of the principle of subsidiarity. The observer for the Centre for Human, Civil and Autonomy Rights referred to the mechanisms for participation of minorities and indigenous groups of the Caribbean coast of Nicaragua and suggested that the examination of such mechanisms would compensate for the overwhelming majority of European examples analysed so far.

77. Mr. Bengoa supported the view that the role played by the CEI mechanism could serve as a model for cooperation in other regions of the world and for joint meetings with other regional mechanisms in the future. With reference to Mr. Gilbert's paper on European jurisprudence, Mr. Bengoa indicated that such studies provided important information, including perceptions on how decisions were arrived at. The discussion on autonomy, in his view, was useful and a major contribution to the debate of the Working Group on the need to find political solutions to minority rights situations, especially when equally applied to all regions of the world. Mr. Cyörffy, Co-Chairperson of the CEI Working Group on Minorities, expressed appreciation for the joint meeting and noted the interest generated in the CEI and other regional mechanisms.

III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES, INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS

78. During the sixth session of the Working Group various suggestions for solving problems involving minorities and better protecting their rights were offered. Papers were presented on separate or integrated provision for minority rights protection and promotion, and on proposals for power-sharing and constitutional reform in Sri Lanka. Other presentations related to the Seminar on Multicultural and Intercultural Education held in Montreal, to conflict prevention in situations involving minorities and to the work of ILO and UNESCO in relation to minority issues.

A. Multicultural and intercultural education

79. Ms. Giroux, from the University of Montreal, introduced the report of the International Seminar on Intercultural and Multicultural Education held from 29 September to 2 October 1999 in Montreal, Canada (E/CN.4/Sub.2/AC.5/2000/WP.4). It had been organized by the Centre d'études sur le droit et la mondialisation and the Working Group on Minorities and had brought together approximately 60 experts, including the members of the Working Group, experts in the area of intercultural education, representatives of federal and national institutions, and representatives of academic institutions and non-governmental organizations from Canada and other countries. The aim of the seminar had been to discuss the issue of intercultural and multicultural education in the light of articles 4.3 and 4.4 of the Declaration. The participants had discussed the protection of the rights of minorities within the framework of the

United Nations, the role of intercultural education in fostering social cohesion, education in the mother tongue, the right to manage educational institutions, and the principle of non-discrimination in the area of education.

80. The conclusions and recommendations of the seminar referred to the need to reflect in educational curricula the history and culture of all groups within society, the participation of all groups in educational policy and programmes, the teaching of the mother tongue, the need for recruitment of teachers from minority communities, the integration of intercultural education into mainstream programmes of initial and continuous education of teachers, and the role of reconciliation processes through education, as well as the establishment of government working groups in Canada to develop federal and provincial policy regarding educational policy, programmes and practices.

81. Mr. Sik Yuen and Ms. Udagama and the observer for the Espacio Afroamericano spoke about inter-culturalism as a norm to which every society should aspire. Ms. Udagama suggested that the Working Group look at ways in which it could provide models and technical assistance to countries on this issue.

B. Role of United Nations bodies and specialized agencies

82. The observer for UNESCO spoke of the work of her organization regarding marginalized and excluded children and children with special needs. With regard to the former, she mentioned the World Education Conference, held in Dakar in April 2000, which had looked at the situation of groups left out of the globalization process and had redefined the purpose of education in the light of the new international developments. Within that framework, UNESCO had launched an "Education to fight exclusion project" which tried to look at new education formulas beyond the formal system. Regarding children with special needs, she referred to the basic principles adopted at the Salamanca Conference in 1994, including the principle that ordinary schools should accommodate all children and that educational policies at all levels should guarantee it. Finally, she informed the Working Group that, at the request of member States, the role of UNESCO as guardian of the tangible heritage of the world was to be extended to intangible heritage, including cultural spaces and cultural forms of expression, a development which she considered of special interest for minorities.

83. The observer for the International Labour Organization (ILO) informed the Working Group that the bases for ILO action in the field of minority rights were the ILO Declaration on Fundamental Principles and Rights at Work and respect for such international labour standards as Convention Nos. 111 on non-discrimination, 107 on migrant workers and 169 on indigenous and tribal peoples. Under the technical cooperation programme to combat child labour, two issues particularly affecting children of minorities were being addressed: children working in dangerous activities, for example, mining in South America, and women and children as victims of trafficking in Asia. As part of its contributions to the World Conference against Racism, ILO had sent a questionnaire to all its offices asking for information on activities undertaken in the field of minorities.

84. The observer for the National Movement for the Human Rights of the Afro-Colombian Communities referred to the role of the Working Group in reaching out and influencing the programmes of United Nations bodies and agencies to apply a vision of cultural diversity.

C. Conflict prevention in situations involving minorities

85. The Chairperson-Rapporteur opened the debate on conflict prevention. He said that two issues needed to be borne in mind in considering the question. In the first place, he referred to inequality, marginalization, and lack of equal treatment as matters that affected minorities. In the worst cases, minorities were subjected to ethnic cleansing and loss of their lands but they might also be discriminated against in areas such as education or in the labour market. In the second place, minorities might also be affected by the monocultural policies of those in power. In such instances, their language or religion or some other aspect of their identity might not be recognized and respected. In the face of those difficulties, minorities reacted by demanding equal treatment, sometimes reparation for past wrongs, participation in political and cultural life, the right to use their language, personal autonomy, and even a territory or separation from the State of which they formed a part. The latter claim was not, in the view of the Chairperson-Rapporteur, an issue which fell within the mandate of the Working Group. He added that consideration should be given to constructive State measures that were identified to address those concerns, such as affirmative action programmes, restitution, intercultural education and recognition. He pointed to the need to take into consideration the tensions that might exist not just between the State and the minority but between ethnic groups themselves. Finally, he recommended that a distinction be recognized between the history or origins of a conflict and its dynamics when the original cause might have long been forgotten and when violence served the interests of what he termed "conflict entrepreneurs" who were exploiting differences for their own political ends.

86. Mr. Ghebali reflected upon the causes and management of ethnic conflict. He believed there were essentially two causes of conflict. A weak or collapsing State no longer able to provide social order, justice and a degree of prosperity lost legitimacy in the eyes of affected minorities. In those circumstances, minorities looked for other solutions. The other cause he attributed to the instrumentalization of ethnic conflict. He referred to conflicts which became "ethnicized" and said that he believed that the violence in former Yugoslavia was caused by a mixture of a weak State and an ethnicized conflict. He was interested in knowing how people could be so easily mobilized and suggested that there was a strong emotional element whereby ethnic groups dehumanized groups other than their own. As far as the management of conflict was concerned, he insisted that it was important to identify the risks and look for the short-term as well as underlying causes of the conflict. He saw three stages in ethnic conflicts. The first was before violence had broken out, when intervention to strengthen the rule of law and civil society and address human rights violations might be considered. Economic development and confidence-building measures were also essential for preventing tension. The second stage, when conflict had broken out, was harder to address. In the case of non-intervention, one party dominated the other. The United Nations had a role to play in bringing both sides together, although the speaker noted that that was often difficult. The third stage was the post-conflict rehabilitation or peace-building phase, when it was necessary to introduce democratic structures and better communications between the Government and minorities with a view to eliminating

the underlying causes of conflict. He concluded by saying that managing a conflict was almost impossible and that effort should be devoted to conflict prevention. In fact the greatest challenge was to ensure early action since most of the likely conflict situations were well known.

87. Mr. Kartashkin referred to the paper on minority rights and the prevention of ethnic conflicts, prepared by Mr. Fernand de Varennes (E/CN.4/Sub.2/AC.5/2000/CRP.3) and to its comparison of sources of certain conflicts with non-compliance with provisions of the Declaration on Minorities. He suggested that the Working Group could look into some of those situations, especially those referred to in sessions of the Working Group by non-governmental organizations, minority representatives and others. He argued that the Security Council alone was the body empowered by the Charter of the United Nations to intervene in conflicts.

88. The observer for the Sikh Human Rights Group made reference to the legacy of colonialism, which had exacerbated conflict between the State and minorities. He said, for example, that in India the Constitution as well as the hierarchical and centralized form of government had led to a fear of devolution. He called for a strengthening of indigenous forms of government. He also thought that as the State grew weaker, the issue of self-determination would increase and communities would seek protection from the encroachment of transnational corporations. The observer for the Centre for Human, Civil and Autonomous Rights also considered that ethnic conflict had its origins in colonialism and spoke about a continuing process of internal colonization by independent States. She noted that stronger national political parties had led to a weakening of indigenous and local systems of community control. There was, in her view, a need for a fairer distribution of resources. The observer for the Niger Delta Human and Environmental Rescue Organization provided information about the problems faced by the Ijaw people in Nigeria upon whom the effects of oil and gas exploitation had had a negative impact. She said that, although most of the country's wealth came from that region, her people were receiving none of the benefits. She believed that the Working Group needed to consider issues relating to land and resources at a future session.

89. Mr. Potier made mention of the situation of Russian-speaking minorities. He also indicated that in studying the relationship between conflict prevention and non-compliance with minority rights, it might also be useful to analyse the ability of the State to accommodate the various demands for those rights. On the matter of the protection and promotion of Russian-speaking minorities, which had been raised by Mr. Potier, the Observer for the Russian Federation indicated that various treaty bodies and regional mechanisms had taken account of and had adopted recommendations on their situation.

90. The observer for the National Movement for the Human Rights of Afro-Colombian Communities said that a major challenge facing the Working Group was to define guidelines and approaches for the prevention of ethnic conflicts around the world and to guide United Nations agencies in developing plans to prevent situations moving from an embryonic stage of difficulties to that of conflict. He believed that the United Nations system and its agencies should not remain indifferent to the situation of minorities within given countries and should play a role not only in obtaining information, conducting research and systematically bringing to light the real causes of conflict, but also in mediation. The observer for the Uganda Land Alliance considered that conflict was generated through the power of the written and spoken

word, particularly in demonizing people and groups in society. She requested that the Working Group focus on that issue in the future, so that the problems of stereotyping and racist propaganda were tackled more systematically.

91. Mr. Hadden introduced a paper he had prepared on separate or integrative provision for the protection and promotion of minority rights. He indicated that his experience was mainly drawn from Northern Ireland, although the issues set out in his paper were applicable to similar situations where there was a need to accommodate concerns for the development of rights in divided societies and where there had been conflict over the determination of control between groups, within government structures. He explained that the approach taken in his paper required prior acceptance that a right of self-determination entailed the granting of some form of regional or functional autonomy. Focus could then be centred on the development of suitable structures, which recognized the separate identity of the minority, as well as the integration of communities' representatives into structures for governance and the provision of public services. Mr. Hadden highlighted the need to maintain a balance between development of separate structures and encouraging integration, to achieve which required the development of clear and accepted terminology that distinguished policies designed to recognize, accommodate and integrate minorities in the broader society from those designed towards assimilation. He also spoke of the need to extend principles and guidelines, such as those applicable to participation in public life developed in the so-called Lund Recommendations, to other areas of minority rights. Such underlying principles, he stated, should include authorization of positive action for integration. He referred to four areas of minority rights which would benefit from further study by the Working Group or by an international seminar, and where principles and guidelines should be developed and applied for the creation of integrative structures. Firstly, he mentioned the need to ensure that members of all communities were involved in policing the whole society and spoke of the dangers of creating separate police forces for each communal group on a territorial basis. Secondly, there was a need for integrated and bilingual education, so that members of two separate linguistic or ethnic communities could be educated together and learn of each other's history and culture. Culture was another area identified as having previously been considered through the prism of separate structures and where it might be useful to consider an integrated structure for delivering fair funding for separate communities. The fourth area identified for study was employment.

92. The Chairperson-Rapporteur indicated that the discussion of such matters were of major significance for the future work of the Working Group. Ms. Udagama also expressed her agreement with Mr. Hadden that an integrationist approach was preferable to a separatist approach to solving minority-related problems.

93. Mr. Wickramaratne introduced his paper containing proposals for power sharing and constitutional reforms in Sri Lanka (E/CN.4/Sub.2/AC.5/2000/CRP.4), which he believed, might contribute to a resolution of the conflicts in his country. He provided some background to the conflict in Sri Lanka. He also pointed to the complexity of the question, drawing attention to the concentration of a Tamil minority in two provinces, but noting that in other parts of the country they were a minority. He noted also the presence in Sri Lanka of other minority groups.

94. The challenge facing divided societies, Mr. Wickramaratne said, was to come up with arrangements to ensure that all the communities had their due share of political power. He

described the new system of government being proposed in Sri Lanka as a quasi-federal one in which the powers of government were shared between the centre and regions, with a clear-cut division of subjects and functions. He outlined the main elements of the new proposals, including details of devolved powers, constitutional safeguards and "consociational" arrangements, such as the need for parallel consent from different communities. He spoke of the lack of power-sharing arrangements between the region and the central level as a major drawback of the present proposals. That issue was now being addressed, he said, with suggestions being put forward, including the possibility of setting up a second chamber, like the Council of States in India. His conclusion was that no solution could be found in Sri Lanka if a unitary system of Government were maintained, and that there was a need to undertake a democratic restructuring to create a multi-ethnic and devolved system.

95. The Chairperson-Rapporteur thanked Mr. Wickramaratne for sharing with the Working Group the proposals made and the important points being debated in Sri Lanka on how to devolve and share power in a situation where communities were both geographically concentrated and dispersed.

IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL AND ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

96. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance generated attention under this agenda item. The observer for the Swiss Federal Commission against Racism presented her working paper (E/CN.4/Sub.2/AC.5/2000/WP.6), which reflected on points of convergence between the work of national institutions, the Working Group and racial discrimination. Following a brief mention of the work of the Swiss Commission, she identified activities to be undertaken by national institutions. Such activities included: providing training for the police and customs officials, as well as political groups, including through working with the Inter-Parliamentary Union; promoting and protecting equality of access to education for various disadvantaged groups, including through provision of education in the mother tongue. She highlighted the major role the media played in strengthening the links between the majority and minority communities, and suggested that codes of conduct for media personnel could be drawn up and that the media could be requested to give greater coverage to issues concerning minorities, their rights and dignity.

97. The observer for the Swiss Federal Commission against Racism also suggested that national institutions should combat racist acts in employment, health, education and housing, by incorporating a prohibition against discriminatory practices in both criminal and civil law. They could also contribute to the creation of mediation and conciliation mechanisms, as well as ensuring an effective system of remedies and compensation for victims of discrimination. In the view of the speaker, national institutions should not only advise victims of discrimination on the legal system and inform them of their rights but also advocate the punishment of racist crimes, including with respect to racist propaganda on the Internet. In that regard, she referred to conclusions contained in the report of a seminar of experts on victims of racist acts, which had been held in Geneva in February 2000. In her view, national institutions should also encourage States to ratify various international instruments, including acceptance of article 14 of the

International Convention on All Forms of Racial Discrimination, and call upon the authorities to withdraw reservations to such standards. She stressed that effective collaboration between various United Nations mechanisms dealing with issues relating to discrimination needed to be ensured. She suggested that national institutions should invite their authorities to contribute actively to the preparations for the World Conference at the national, regional and international levels, and that they should support the accreditation to the preparatory meetings of non-governmental organizations representing minorities, and excluded indigenous people that did not have consultative status with the Economic and Social Council. Lastly, she advocated the Working Group's full participation at all levels of the Conference and its follow-up process.

98. The observer for the United States of America referred to the recommendations proposed by the observer for the Swiss Federal Commission against Racism and agreed that education was one of the most important ways to prevent and combat racism. She expressed concern about the banning of racist material on the Internet. It was not illegal to post racist propaganda on the Internet in the United States, although it could be a crime when it incited people to carry out a violent act. She considered that the banning of such information could make it more difficult for the Government to monitor groups advocating such ideas and to counter their arguments.

99. The observer for Finland expressed her full support for the proposed contributions of the Working Group and non-governmental organizations to the World Conference against Racism, as suggested in the paper under discussion. She cited the provisions of article 1 of the International Convention on the Elimination of Racial Discrimination and stated that they provided the Working Group with the basis to raise issues relating to discrimination against minorities. She appealed to the Working Group not to neglect to raise the situation of women belonging to minorities and for the implementation of the so-called Lund Recommendations on the effective participation of minorities in public life.

V. THE FUTURE ROLE OF THE WORKING GROUP

100. The Working Group discussed under this heading: (i) further restructuring of the agenda to achieve a more focused approach; (ii) themes for the next session; (iii) the question of further standard-setting, including an exploration by the Sub-Commission and the Commission on Human Rights of the desirability or otherwise of drafting a convention in this field; (iv) preparations to be undertaken for the World Conference against Racism, to be held in South Africa in September 2001; (v) the holding of regional seminars.

101. Concerning the restructuring of the agenda, the Chairperson-Rapporteur reminded participants of the discussion which had been held the previous year on the basis of a working paper on the future role of the Working Group prepared by the International Center for Ethnic Studies (E/CN.4/Sub.2/AC.5/1999/WP.9). While progress had been made, he argued that further restructuring of the agenda was required. Such restructuring would remain strictly within the mandate set by the Commission and would avoid duplication with the work of other United Nations bodies. He underlined that the Working Group was not a treaty body and had no intention to so become. Several government observers (among them those of Bangladesh, Egypt, Mexico, the Netherlands and the United States) agreed that further clarification of the focus was desirable, in line also with the review of the mechanisms now being carried out by the Commission.

102. For the restructuring of the agenda, Mr. Kartashkin suggested that the focus of the Group's work should be directed to the recommendation of measures to promote the protection of minorities, as well as the practical realization of the Declaration. On the need for the Working Group to streamline and organize its dialogue with Governments, he indicated a preference for the Working Group considering particular minority situations that were a cause of concern to the international community and, when invited, visiting specific countries or seeking information in other ways.

103. To avoid overlap and duplication, Mr. Kartashkin reiterated the recommendation made the previous year that an international seminar should be held to enable representatives of international and regional bodies to discuss matters such as coordination and non-duplication of work, to exchange information and to seek ways and means for better protection of the rights of persons belonging to minorities.

104. Concerning other themes for the next session, several proposals were made, including the question of integrative versus separatist modes of accommodating minorities, encompassing the questions of decentralization, autonomy and self-administration. At the next session the progress made in the development of databases concerning minority issues should also be assessed. Other thematic issues mentioned were the links between minority issues and paramilitary groups, population displacement and post conflict arrangements. It was suggested that the issues of multiculturalism and monoculturalism also merited further attention.

105. Mr. Kartashkin suggested that the United Nations should start to explore the desirability or otherwise of the drafting of a new convention. That would require an initiative on the part of the Commission, seeking the views on the matter of Governments, NGOs and international organizations. Several observers expressed doubts. They underlined, however, that the initiation of that process would make it necessary to solicit the views of Governments, which would have to be pursued through the Sub-Commission and the Commission.

106. Several suggestions were made regarding regional or thematic seminars to be held with the involvement of the Working Group. Mr. Bengoa and some NGO observers recommended that a seminar be held in the Latin America and Caribbean region to examine the issues facing Afro-American groups. It was also recommended that seminars should be held in Asia and Africa. Certain observers (Bangladesh, Egypt) expressed a preference for regional and other seminars being organized by the Office of the High Commissioner for Human Rights wherever possible, and for greater involvement of Governments in such meetings.

107. In regard to the World Conference against Racism, it was suggested that the Chairperson-Rapporteur should prepare for the next session a statement focusing on the relationship between racism and minority issues to be delivered to the World Conference. Other participants, including government observers (Egypt, Pakistan, Mexico), suggested that the statement should be presented to the Preparatory Committee of the World Conference.

108. The Chairperson-Rapporteur indicated that the Working Group hoped to participate in the next session of the Preparatory Committee of the World Conference against Racism, and that the statement to be prepared would take account of points raised by the observer for the Swiss Federal Commission against Racism and the discussion which had followed her statement.

VI. CONCLUSIONS AND RECOMMENDATIONS

109. On the basis of the discussion held during the sixth session, the Working Group agreed on its conclusions and recommendations for future action. They are set out below.

A. General

110. The Working Group expresses its profound thanks to participants who have prepared studies for its work and to those who have taken part in the sixth session. Many have done so at great cost to themselves or their organization. The Working Group regrets that so few resources are made available for the international efforts to protect minorities and thereby to promote the stability of States, and hopes that this can be remedied in the future.

111. The Working Group expresses its satisfaction that an increasing number of government observers are attending its sessions, and that many of them have provided information on steps taken to advance the implementation of the Declaration. It intends to advance the efforts to encourage constructive dialogue in the search for solutions to minority issues, taking into account the specific and diverse situations in the different regions of the world.

112. The Working Group expresses its appreciation of the joint meeting held with the Working Group on Minorities of the Central European Initiative, which made it possible to compare the global and the sub-regional Central European approaches to minority protection.

113. The Working Group has taken note of the many constructive recommendations made by non-governmental organizations, Governments and experts, orally and in writing. These will be taken into account in the report and as far as possible be integrated into the work-plan within the framework set out below. Further progress in this work requires continuous and intensive action throughout the year. It depends on voluntary contributions in many forms, including the preparation of working papers and the holding of seminars.

B. Decisions made at the sixth session

114. The Working Group requests its Chairperson-Rapporteur to finalize the commentary prepared by him on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, taking into account the observations made by the members of the Working Group and participants at its sixth session, and to ensure its publication in a future United Nations manual on minorities.

115. The Working Group decides to rationalize the agenda as follows. At its seventh session, three meetings will be devoted to item 3 (a) on the practical realization of the Declaration at the national level, providing opportunities for non-governmental organizations, government observers and other participants to review developments in different parts of the world, three meetings under item 3 (b) for discussion of possible solutions to minority problems, including case studies and dialogue on particular situations, and three meetings under item 3 (c) for discussion on thematic issues. The theme selected for the seventh session is more in-depth examination of the right to effective participation of minorities in the society of which they form a part. Special attention under this theme will be given to an examination of integrative and

autonomist approaches to minority protection. For that purpose, working and conference room papers should be prepared on relevant jurisprudence at the regional and global levels and on selected models of integrative and autonomist solutions. Mr. Bengoa is entrusted with the task of preparing a paper on autonomy models in the Americas, Mr. Kartashkin of ensuring that a study is prepared on the use of autonomy approaches in the Russian Federation, Mr. Eide of preparing a paper on cultural or personal autonomy. The Working Group takes note with gratitude of: the willingness of the delegation of Finland to have a study prepared on autonomy arrangements in Finland (the Aaland Islands model, the Sami cultural autonomy, etc); Mr. Hadden's offer to prepare a study on integrative approaches to minority protections; and the indications made by other experts of their willingness to prepare studies on these subjects.

116. The Working Group decides to encourage the further development of regional networks and studies regarding the implementation of the Declaration. For that purpose, it recommends that one seminar be held in the Asian and Pacific region, one in the Americas focusing, in particular, on the situation of the Afro-American minorities, and one seminar be held in Africa as a follow-up to the Arusha seminar held in May 2000. Participants should include representatives of minorities, non-governmental organizations and Governments of the region, in particular, officials with responsibility for minority issues.

117. The Working Group authorizes its Chairperson-Rapporteur to prepare a statement to be delivered at the World Conference against Racism, focusing on the relationship between the elimination of racial discrimination and the protection of minorities.

118. The Working Group requests that funding be secured to employ a person full-time in the Office of the High Commissioner for Human Rights to deal with the rights of persons belonging to minorities and, as part of that function, to service the Working Group.

119. The Working Group recommends that a voluntary fund with an independent board of trustees be established for minority issues.

120. The Working Group urges that steps be taken to ensure the implementation of the measures relating to minority issues envisaged in the High Commissioner's Appeal 2000, as soon as conditions and funds make this possible.

121. The Working Group reiterates its appeal to the High Commissioner for Human Rights to organize a seminar for representatives of global and regional organizations, treaty bodies and specialized agencies to discuss issues connected with their respective work on the protection of minorities, improve coordination so as to reduce duplication and parallel activities, exchange information and seek ways of better protecting the rights of persons belonging to minorities.

122. The Working Group recommends that the Sub-Commission recommend that the Commission request Governments and intergovernmental and non-governmental organizations to submit their views on the desirability or otherwise of the drafting of a convention on the rights of persons belonging to minorities, taking into account regional conventions on the subject, and also to give their views on the content of such a convention.

123. The Working Group decides to encourage further work on databases, as set out in paragraphs 95 to 97 of the report on its fifth session (E/CN.4/Sub.2/1999/21). Included in such databases should be information on best practices concerning minority protection.

124. The Working Group decides to continue its practice, initially established at its fourth session, of submitting information presented at its sessions by minority representatives and non-governmental organizations to Governments concerned that were not represented by observers at the session and therefore were not in a position to respond to the information presented, thus providing an opportunity for concerned Governments to provide additional information to that submitted by NGOs. Such information will be dealt with under agenda item 3 (b) at the next session.

Annex

LIST OF DOCUMENTS BEFORE THE WORKING GROUP ON MINORITIES AT ITS SIXTH SESSION

Symbol	Title
E/CN.4/Sub.2/AC.5/2000/1	Provisional agenda
E/CN.4/Sub.2/AC.5/2000/1/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/AC.5/2000/WP.1	Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, prepared by Mr. Eide
E/CN.4/Sub.2/AC.5/2000/WP.2	Existence and recognition of minorities, working paper prepared by Mr. Bengoa
E/CN.4/Sub.2/AC.5/2000/WP.3	Report of the Seminar on Multiculturalism in Africa: Peaceful and Constructive Group Accommodation in Situations involving Minorities and Indigenous Peoples, held in Arusha, United Republic of Tanzania, 13 to 15 May 2000
E/CN.4/Sub.2/AC.5/2000/WP.4	Montreal International Seminar on Intercultural and Multicultural Education
E/CN.4/Sub.2/AC.5/2000/WP.6	Contribution of National Institutions to the World Conference against Racism: recommendations for the Working Group on Minorities, working paper prepared by Mme. Sambuc, Vice-President of the Swiss Federal Commission against Racism
E/CN.4/Sub.2/AC.5/2000/CRP.1	Jurisprudence of the European Court and Commission of Human Rights in 1999 and minority groups, conference room paper prepared by Prof. Geoff Gilbert, Department of Law and Human Rights Centre, University of Essex
E/CN.4/Sub.2/AC.5/2000/CRP.2	Proposition pour l'élaboration des régimes d'autonomie pour résoudre la question des communautés minoritaires de l'Europe centrale et balkanique, conference room paper prepared by Mr. Gyula Csurgai

Symbol	Title
E/CN.4/Sub.2/AC.5/2000/CRP.3	Minority rights and the prevention of ethnic conflicts, conference room paper prepared by Mr. Fernand de Varennes, Director, Asia-Pacific Centre for Human Rights and the Prevention of Ethnic Conflict, Perth, Australia
E/CN.4/Sub.2/AC.5/2000/CRP.4	The Sri Lankan Government's proposals for power-sharing, conference room paper prepared by Mr. Jayampathy Wickramaratne, Attorney at law, Consultant, Ministry of Justice, Constitutional Affairs, Ethnic Affairs and National Integration, Sri Lanka
E/CN.4/Sub.2/1998/18	Report of the Working Group on Minorities on its fourth session, Geneva, 25-29 May 1998
E/CN.4/Sub.2/1999/21	Report of the Working Group on Minorities on its fifth session, Geneva, 25-31 May 1999